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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,056	11/17/2003	Donald R. Jones	DRJ-001	3681
26654 7590 03/15/2007 BUTZER & CHEN LAW, LLC 870 HIGH STREET, SUITE 104 WORTHINGTON, OH 43085			EXAMINER SARKHILI, SARA	
			ART UNIT	PAPER NUMBER
			3714	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/15/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/715,056	<b>Applicant(s)</b> JONES, DONALD R.	
	<b>Examiner</b> Sara Sarkhili	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 24 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
     4a) Of the above claim(s) 6,7,17,20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This action is in response to applicant's amendment received on 08/24/2006. Claims 2-5, 9-14, 16, 18 and 19 have been previously presented and claims 1, 8, and 15 are currently amended. The applicant has canceled claims 6, 7, 17, 20, and 21.

#### ***Drawings***

Applicant has failed to address the objection to the drawings made in the previous office action as follows:

The drawings are objected to because figures 7-29 appear to be photographs that are illegible. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Adam (U.S. 4,741,537).

Adam generally discloses a golf-teeing device having an golf ball storage and feeding means in combination with a tee-lifting means which are selectively actuatable for smoothly and efficiently placing golf balls upon a tee at a desired height without need for adjustment of the golfers stance or handgrip. Adam additionally discloses a method and apparatus:

**Regarding claims 1 and 15:**

- an automatic tee-up device, comprising: a golf ball reservoir (storage means 8) (Fig. 1);
- a platform (25) with a groove (54) for a golf ball to travel from the reservoir to a tee, with the tee movable from below a level of the golf ball in the groove to above the level of the golf ball in the groove (Fig. 1, 5, 8, 9, column 2, lines 20-65, and column 3, line 34-column 7, line 6);

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- and a ball ejector (rocking arm 37) disposed to eject golf balls one at a time from the reservoir (storage means 8) onto the groove (Fig. 1, 5, 8, 9 and column 6, lines 25- 41);
- wherein after the golf ball is ejected by the ejector, the golf ball travels on the groove to the tee and is raised by the tee into a position suitable for striking with a golf club (Fig. 1, 5, 8, 9, column 2, lines 20-65, and column 3, line 34-column 7, line 6).
- wherein the ball ejector and the tee are actuated by a lever (7) that projects from the platform (Figs. 1, 3, 6, and column 3, lines 40-44).
- wherein the lever is disposed to be actuated by a head of the golf club moved in a horizontal arc (Figs. 1, 3, 6, and column 3, lines 40-44).

Moreover, Adam (Col. 6 lines 31-41) mentions the term "pedal bar rotates", which is an indication of an arc movement for the pedal.

**Regarding claim 2:**

- wherein the platform includes a mat that has the groove (54) (Figs. 1 and 3).

**Regarding claim 3:**

- wherein the mat with the groove is removable from the rest of the platform (Fig. 3).

**Regarding claim 4:**

- wherein the platform includes at least one other mat (2) positioned where a golfer stands on the platform (Fig. 1 and column 3, lines 36-37).

**Regarding claims 5 and 16:**

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- wherein the ball ejector operates in conjunction with an agitating block so as to eject the golf balls one at a time and so as to agitate golf balls in the reservoir (column 3, line 58-column 4, line 22). The examiner interprets the outside of the storage means to be an agitating block because the outside of the storage means directs the golf balls down a spiraling tubing (10) via gravity. The movement of the golf balls along this path are agitated or moved.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-10 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Adam (U.S. 4,741,537) in view of Eckardt Jr. et al. ("Eckardt") (U.S. 20030162598).

Adam discloses that as discussed above with regard to claims 1-5 and 15-16. Adam additionally discloses:

**Regarding claim 9:**

- wherein the tee is removable so as to facilitate replacement of the tee. The tee is removable because it may be glued in place. Also, the height of the tee may be increased or decreased by increasing or decreasing the number of spacers (91).

However, Adam appears to lack explicitly disclosing:

**Regarding claims 8 and 18:**

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- wherein the lever is connected to a ramp and the tee is connected to a tapered block that rests on the ramp such that movement of the ramp causes the tee to raise or to lower.

**Regarding claims 10 and 19:**

- wherein different positions of the lever correspond to different tee heights, and wherein the platform further includes a scale adjacent the lever corresponding to the tee heights.

Eckardt, an analogous semiautomatic teeing device teaches of a lever (9) attached to ramp (64) which is used to adjust the height of the tee. Eckardt additionally teaches:

**Regarding claims 8 and 18:**

- wherein the lever (9) is connected to a ramp (64) and the tee is connected to a tapered block (extension 62) that rests on the ramp such that movement of the ramp causes the tee to raise or to lower (Figs. 2, 7 and paragraphs 12, 18, 20-21, 23-24, 57, 72-73, 75-76, 96-97, and 106).

**Regarding claims 10 and 19:**

- wherein different positions of the lever (9) correspond to different tee heights, and wherein the platform further includes a scale adjacent the lever corresponding to the tee heights (Figs. 2, 7 and paragraphs 12, 18, 20-21, 23-24, 57, 72-73, 75-76, 96-97, and 106). Although Eckardt does not explicitly disclose a scale adjacent the lever corresponding to the tee heights, it would have been obvious to do so at the time of Applicant's invention because it would allow a

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golfer to adjust the tee to a desired height without the need to experiment to find the desired height.

It would have been obvious at the time of Applicant's invention to modify Adam's lever with that of Eckardt. One would have been motivated to do so such that a golfer could practice with different clubs at various tee heights, such as, a driver which would be teed up higher than say that for a nine iron.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adam (U.S. 4,741,537) in view of Lai (U.S. 4,779,796).

Adam discloses that as discussed above with regard to claims 1-5 and 15-16.

Adam additionally discloses:

**Regarding claim 13:**

- wherein the groove (54) is in a removable mat on the platform (25) (Fig. 1, 5, 8, 9, column 2, lines 20-65, and column 3, line 34-column 7, line 6);
- wherein the platform includes at least two mats positioned where a golfer stands on the platform (Fig. 1, 5, 8, 9, column 2, lines 20-65, and column 3, line 34-column 7, line 6).

Adam appears to lack explicitly disclosing:

**Regarding claim 11:**

- further comprising one or more leveler feet on which the platform rests, the leveler feet permitting the platform to be leveled.

**Regarding claim 12:**



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- wherein the platform further includes at least one hinge by which the platform can be folded up.

**Regarding claim 13:**

- wherein a seam between the two mats aligns with the hinge.
- Lai, an analogous golf teeing device that can also be used for practice, teaches of a height adjustable golf platform that additionally folds along a hinge and may be locked such that the device may be stored away when not in use. Lai teaches:

**Regarding claim 11:**

- further comprising one or more leveler feet (wedge leaf 13) on which the platform rests, the leveler feet permitting the platform to be leveled (Figs. 1, 10 and Column 2, lines 6-12). Although the wedge leafs are typically used to simulate a sloping surface on a golf course, it may also be used to level the golf platform on an un-level surface.

**Regarding claim 12:**

- wherein the platform further includes at least one hinge (10) by which the platform can be folded up (Fig. 6).

**Regarding claim 13:**

- wherein a seam (see figs. 6 and 13-15) between the two mats aligns with the hinge (10) (Fig. 6).

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adam (U.S.

4,741,537) in view of Lai (U.S. 4,779,796) and further in view of Koett (U.S. 3,693,979).

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Adam and Lai teach that as disclosed above regarding claims 11-13. Adam and Lai appear to specifically teach:

**Regarding claim 14:**

- wherein further including at least two wheels disposed for moving the automatic tee-up device when the platform is folded up.

Koett, an analogous golf practice device, teaches of a golf practice device wherein the device has roller means (78) supporting the device such that the device may be moved to any desired location. Koett teaches:

**Regarding claim 14:**

- wherein further including at least two wheels (78) disposed for moving the automatic tee-up device when the platform is folded up (Fig. 4).

It would have been obvious at the time of Applicant's invention to modify the combination of Adam and Lai with the roller means of Koett. One would have been motivated to do so in order for the golf teeing device to be rolled to a desired location to be stored away when not in use.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Russell et al. '896, Howe '370, Gager '816, Gager' 110, Hughes '332, Ballinger et al. 685, and Brown '299 disclose golf ball teeing devices and methods.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara Sarkhili whose telephone number is 571-272-2831.

The examiner can normally be reached on Mon-Fri 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571)272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SS

*Ronald Aeneau*

*Primary Examiner*

*3/14/07*